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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: PBT - 203314

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on October 1, 2021, under Wis. Admin. Code, sec. HA 3.03, to review a decision by the DHS Bureau of Enrollment Policy And Systems regarding PBT, a hearing was held on December 2, 2021, by telephone.

The issue for determination is whether the agency correctly denied Pandemic EBT benefits for petitioner's daughter for the 2020-21 school year.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: [REDACTED]  
DHS Bureau of Enrollment Policy And Systems  
1 West Wilson St  
Madison, WI 53703

**ADMINISTRATIVE LAW JUDGE:**

Beth Whitaker  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of St. Croix County.
2. During the 2020-21 school year, [REDACTED] attended school at [REDACTED].

3. During the 2020-21 school year, [REDACTED] did not participate in the National School Lunch Program.
4. The agency denied petitioner's request for PEBT benefits for her daughter.
5. On October 1, 2021, the Division received petitioner's request for hearing.

### **DISCUSSION**

Pandemic Electronic Benefit Transfer (PEBT) is part of the U.S. government's response to the COVID-19 pandemic. The Families First Coronavirus Response Act of 2020 (PL 116-127), as amended by the Continuing Appropriations Act 2021 and Other Extensions Act (PL 116-159), the Consolidated Appropriations Act 2021 (PL 116-260), and the American Rescue Plan Act of 2021 (PL 117-2) provides the Secretary of Agriculture authority to approve state agency plans to administer PEBT.

Wisconsin's PEBT program was created under this new federal authorization in response to the COVID19 pandemic and the recognized need to provide nutrition to Wisconsin children who would normally receive free and reduced-price school lunch as intended by the new federal law. Wisconsin's plan for administering the program was approved by the U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) on February 8, 2021. The plan can be found at <https://fnsprod.azureedge.net/sites/default/files/resource-files/Wisconsin-PEBT-SY-20-21-plan-approved.pdf>. The manual for the program is at <https://www.dhs.wisconsin.gov/covid-19/forwardhealth-pebt.htm>.

The PEBT program provides EBT benefits to purchase food for children whose schools are closed and who are already enrolled in the federal free and reduced-price lunch program. The approval memo from the USDA states: "Children are eligible if they would have received free or reduced price meals at their schools through the National School Lunch Program (NSLP) if not for the closure or reduced attendance or hours of their schools for a period of at least 5 consecutive days."

The agency's representative testified that petitioner's child's school does not participate in the national lunch program and therefore is ineligible for the benefit and provided evidence to support the testimony. Petitioner did not dispute that fact. The list of schools that participate in the program is available at <https://www.dhs.wisconsin.gov/covid-19/wi-nslp-2020-2021.pdf>. This child's school is not on the list.

Petitioner testified that her daughter received the benefits while attending a different school in the past and should continue receiving them. Regardless of past events or the individual circumstances or needs of petitioner or her daughter, the school's participation the National School Lunch Program is a prerequisite to PEBT eligibility for its students.

The process is consistent with the State Plan approved by the USDA, which controls implementation of the PEBT program. Further it is reasonable in that petitioner's child would not have received free/reduced price lunch if she had attended [REDACTED] pre-pandemic, given that the school does not participate in the program. Petitioner failed to show that the agency made any error in denying PEBT benefits to her child. I find the agency acted correctly.

### **CONCLUSIONS OF LAW**

The agency correctly denied PEBT benefits for petitioner's child because her school does not participate in the National School Lunch Program.

**THEREFORE, it is**

**ORDERED**

The petition for review is denied.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

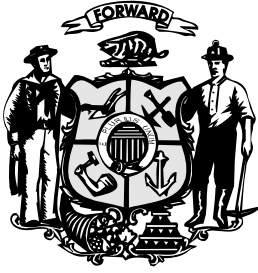
The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 19th day of January, 2022



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Beth Whitaker  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 19, 2022.

Dhs Bureau of Enrollment Policy And Systems